

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JEFFREY HARRIS
:
:
v. : Civil Action No. DKC 20-988
:
THE DOW CHEMICAL COMPANY, et al.
:

MEMORANDUM OPINION

Plaintiff initiated this action on April 17, 2020, asserting claims for breach of warranty, strict product liability, and negligence against Defendants. (ECF No. 1). Defendants filed notification of Plaintiff's death and a motion to stay the case for 120 days on January 14, 2022 (ECF Nos. 70, 71). Personal service of both the notification of death and motion to stay were effected on Amy Harris, Plaintiff's wife, on January 19, 2022 (ECF No. 74). Magistrate Judge Sullivan granted the motion to stay for 120 days on February 3, 2022 (ECF No. 75). Defendants moved to dismiss for failure to file a motion to substitute on April 27, 2022 (ECF No. 76).

Fed.R.Civ.P. 25 (a)(1) provides that if a party dies and the claim is not thereby extinguished, the court may order substitution of the proper party. The notice of death is to be served as provided in Rule 5 and upon persons not parties in the manner provided in Rule 4. Fed.R.Civ.P. 25 (a)(3).

A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of the statement noting death, the action by or against the decedent must be dismissed.

Because the stay has now expired and no motion to substitute or opposition to Defendants' motion to dismiss has been filed, Defendants' motion to dismiss will be granted. A separate order will follow.

/s/
DEBORAH K. CHASANOW
United States District Judge